

HOUSE.....

.....No. 71.

MEMORIAL AND REMONSTRANCE

RELATING TO THE

MASSACHUSETTS MEDICAL SOCIETY.

W3
310/100
1839

M E M O R I A L .

To the Honorable the Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled :

The petition of John Stephen Bartlett, doctor of medicine, of Marblehead, in the county of Essex, and Commonwealth aforesaid, humbly sheweth,—

1st. That your petitioner did, on the twenty-third day of January, in the year of our Lord eighteen hundred and thirty-one, receive, after full and careful examination as by law provided, the degree of doctor of medicine, from the professors of Harvard University, appointed to confer such degree, in conformity with the various legislative acts of the Commonwealth aforesaid, empowering them so to do.

2d. That, as appears by the document marked No. 1, accompanying this memorial, “all the rights, honors, dignities, titles, immunities and privileges appertaining to said degree,” as by law established, were, in virtue of the diploma testifying the reception of the degree aforesaid, inalienably vested in your petitioner.

That, among the rights, dignities, immunities and privileges conceded inalienably in manner aforesaid, were distinctly specified “the right of *consultation*, and of exer-

cising, all and singular, those rights appertaining to the degree aforesaid.

3d. Your petitioner further humbly sheweth, that he, believing that a community of intercourse between members of a profession, the end of which is, to mitigate or remove human suffering and disease, would be of advantage to the members thereof, and to the community at large, was induced, by the knowledge of the fact that a certain corporate body, known as the Massachusetts Medical Society, assumed, in virtue of its charter, the advancement of these desirable ends, to join said society, in the year of our Lord eighteen hundred and thirty-three, as appears by document marked No. 2.

4th. That, in the year 1836, your petitioner was co-editor of a certain newspaper, printed in the city of Boston, called the Boston Pilot; and that, on the twelfth day of March of the same year, your petitioner did write and cause to be printed, in said newspaper, a certain editorial article, over his own signature as editor, in which he stated the fact that one John Williams of England—an oculist by profession—had cured certain cases of blindness by means peculiar in their nature, and method of application, that he had witnessed said cures, and that he conceived said Williams to be a public benefactor; that, entertaining these sentiments, he could not hesitate to recommend said Williams to the notice of the community, in the belief that his skill was superior to that generally possessed by the members of the medical profession.

Your petitioner farther proceeded to declare, in the editorial article aforesaid, that he had, from personal observation, been painfully convinced, that *quackery*, (thereby signifying ignorant imposture,) existed, to a great ex-

tent, among those who were licensed members of the society above named; and on this head refers to document No. 3.

5th. Your petitioner would further show, that, in consequence of the publication of the sentiments aforesaid, he was consecutively summoned before the censors and counsellors of said society, and that finally, at the annual meeting of the said society, in May, A. D. 1836, he, after having been heard before that body in his own defence, was expelled from its fellowship, for having violated the eighth article of its by-laws; as will appear, to your honorable body, from the documents marked 4 and 5.

6th. Your petitioner, having arranged the aforesaid documents in order for inspection, and also having those marked 6, 7, 8 and 9, in readiness for the examination of the Legislature, further humbly sheweth :

7th. That he explicitly declared, that in all which he said, or did, he was actuated solely by a regard “for morality and the general good of mankind.”

8th. That he PROVED the facts, which he had stated, to be TRUE, and declined retracting his avowal of these facts, from conscientious motives.

9th. That he had been induced to become a member of the Massachusetts Medical Society under the impression that it was an institution calculated for the good of the human family, and not for the furtherance of private and selfish views

10th. That an official declaration was made by Abel L. Pierson, of Salem, a censor and counsellor of the society, at the annual meeting aforesaid, in the words in *substance* following, to wit : “That the laws of the Massachusetts Medical Society do not recognise the sentiment, that a regard for morality and the general

good of mankind is, in any wise, incumbent on its members; and that its members are bound to obey the by-laws of the society without reserve, even though the sacrifice of human life be the consequence.

11th. That the official announcement of the foregoing sentiment, was tacitly approved of by the society, in expelling your petitioner, as will appear by document No. 4, upon no other ground, than his inflexible adherence to the principle, that "morality and the general good of mankind" had induced him to violate a by-law of that body, by recommending to public favor, in his editorial capacity, an individual whom he had *seen* perform cures of blindness, which were, and are, recorded on the books of the Massachusetts General Hospital, and on those of the Boston Eye and Ear Infirmary, under the head of "Discharged, Incurable."

12th. That while a member of the society aforesaid, your petitioner presented articles of impeachment against many of its members for gross, open, and flagrant violations of its laws, greatly more aggravated in their character than that for which your petitioner had been impeached; that he expostulated with the society, in a most respectful manner, in the document No. 5, after his expulsion, on the injustice done him,—that the reading of said expostulation was objected to by Abel L. Pierson, of Salem, aforesaid; and that the redress of injury which your petitioner sought for, was in violation of all conventional rules of honor and justice, maliciously withheld.

13. Your petitioner farther declares, that, in direct violation of the pledge given him by Harvard University, he has been refused the rights of professional association, of consultation, and the other *inalienable* rights conceded, and granted to him during his natural life, by the Univer-

sity aforesaid, agreeably to the statutes of this Commonwealth, and that, in consequence thereof, he has been repeatedly subjected to great mortification and important pecuniary loss.

14th. Your petitioner farther declares, that, at no time, did the society, or its officers, bring any ground of impeachment against him, other than that he unyieldingly maintained the doctrine that the health and welfare of his fellow creatures are paramount to any by-law of that corporation, or any other, when such by-laws contravene such principle:—That no charge of mal-practice or immorality was ever preferred against him, and that the expression of that sentiment was, as will be shown, the sole cause of the persecution from which he has suffered in very many and divers ways.

15th. Your petitioner furthermore would say, that, from disinclination to weary the patience of the Legislature by a recapitulation of all the facts illustrating the truth of the positions taken in this memorial, and which are contained in the documents referred to above, he has deemed it expedient to condense the subject-matter of his petition under the following heads, viz :

1st. That he is prepared to prove before a Committee of your Honorable body, that the charter of the Massachusetts Medical Society is null and void for the reasons that in the charter and by-laws are contained, articles incompatible with the provisions of the Constitution of this Commonwealth; and that they contravene the prior rights and privileges of Harvard University, by annulling under certain circumstances, the rights granted by its Faculty.

2d. That he is also prepared to prove, that its organization is, and has been, for several years past, highly det-

rimental to the best interests of the community and of the profession ; and that the doctrine declared in section 10th of this petition is manifestly subversive of all that is good.

3d. That in consequence of the utter disregard of all humane and moral feeling, as stated in the last named section, endorsed, virtually, by the society, as above shown, there is reason to apprehend a moral dereliction among the rising members of the profession, who are, by a peculiar, imperceptible, yet real bond of thralldom, obliged, from the very necessity of the case, to continue a system at which their moral principle revolts, while the absolute exigencies of their situation, as young men, compel them to bear the yoke.

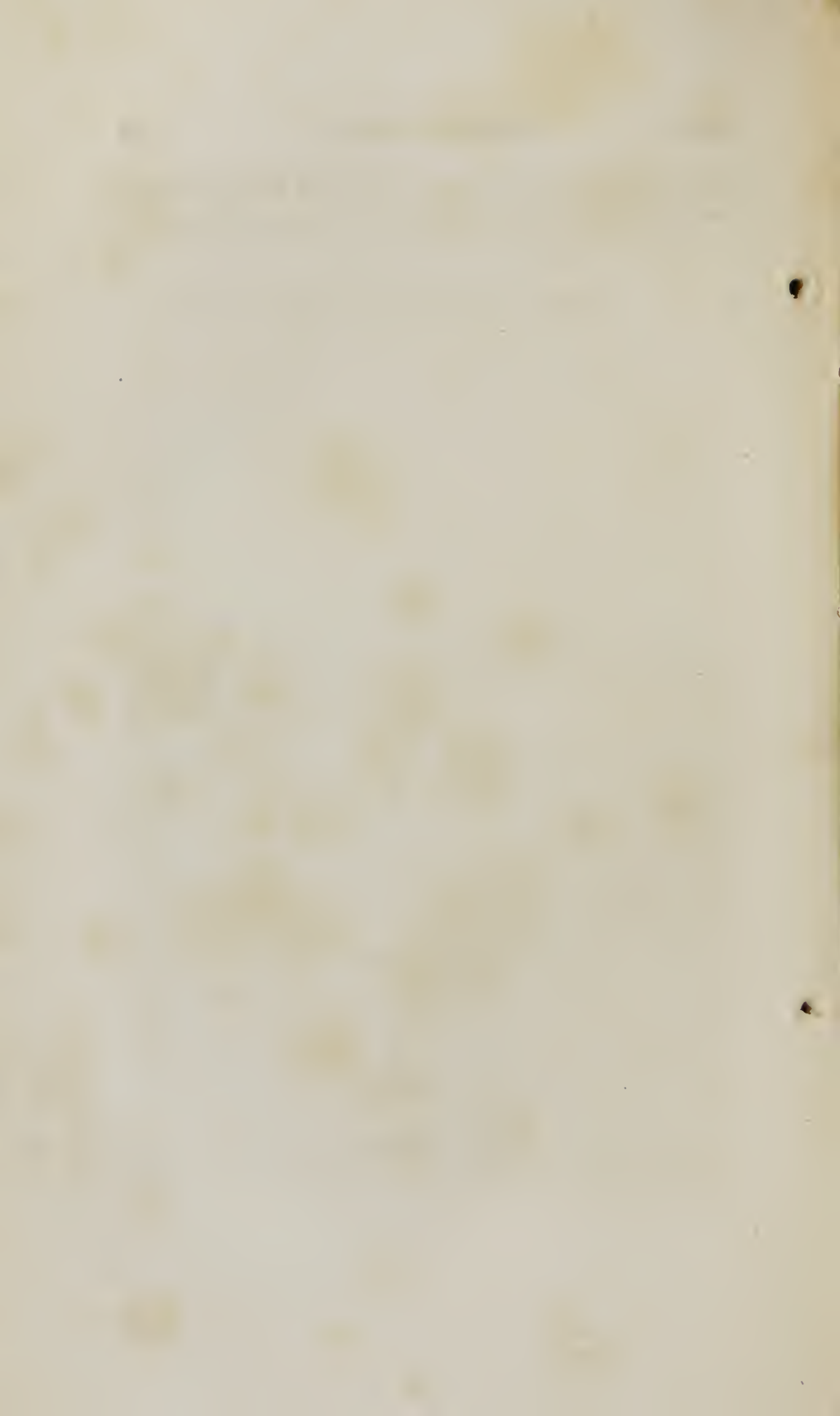
4th. That the effect of the foregoing state of things, in this Commonwealth, has been to increase to an alarming extent, dangerous quackery, and this fact your petitioner can abundantly demonstrate.

5th. THEREFORE, your petitioner humbly prays your honorable body to appoint a special Committee for the purpose of investigating the charges preferred against the Massachusetts Medical Society, contained in this memorial either directly, or by implication, and particularly that such Committee be empowered to send for persons and papers, touching the matter ; and your petitioner pledges himself, to produce before such Committee, if it shall be appointed, personal and documentary evidence, which shall prove to your honorable body, that the principles upon which the charter of the Massachusetts Medical Society was granted, have been violated, that their acts have been not only unjust and oppressive to members belonging to it, but contrary to the laws of this Commonwealth. And he therefore prays that their charter may

be declared void, and that he may obtain such redress of his grievances as your honorable body alone can afford.

And as in duty bound will ever pray.

JOHN STEPHEN BARTLETT, M. D.



REMONSTRANCE.

To the Honorable the Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled :

The remonstrance of A. L. Peirson, of Salem, against the petition, to annul the charter of the Massachusetts Medical Society, of John S. Bartlett, of Marblehead, respectfully represents :—

That the name of your remonstrant having been set forth in the petition of Dr. Bartlett, connected with injurious and untrue statements, in regard to language used by him, before the Massachusetts Medical Society, at their annual meeting in 1836, your remonstrant deems it due to his own character, and that of the Fellows of the society present at said annual meeting, utterly and entirely to deny the expression of any such language, or any such sentiments, as those imputed to him by Dr. Bartlett ; and to lay before your honorable body a brief statement of the occasion, and the language used, on which the injurious allegations of Dr. Bartlett are founded.

Your remonstrant, with two other counsellors of the Medical Society, neither of them resident in Boston, of which city Dr. Bartlett was then, and had been for some

time an inhabitant, was appointed, at a meeting of the counsellors of said society, May 13th, 1836, to act as a committee for prosecuting certain charges against Dr. Bartlett, as a Fellow of the Massachusetts Medical Society, at their annual meeting, May 26th, 1836, Dr. Bartlett having been, some days previously, officially notified in writing that these charges were to be preferred against him at this time. The principal of these charges was the having confederated with a certain irregular practitioner to impose upon and deceive sundry citizens of the Commonwealth, by pretending to cure incurable blindness, which confederation is in violation of a by-law of the society, prohibiting such intercourse. These charges were proved and admitted to their full extent by Dr. Bartlett, who, instead of expressing his regret for numerous aggravated breaches of this by-law, which he had given his promise, deliberately, in writing to obey, defied the authority of the society, and declared his intention to persist in his revolt against the wholesome restraint which the society has always exercised upon the professional intercourse of its Fellows. The expulsion of Dr. Bartlett was the necessary consequence of his persisting in this course, and took place on this occasion, after the society had extended to him the utmost indulgence, in hearing his statements and reasons.

One of the distinct heads of Dr. Bartlett's defence was the legality of his proceeding. To support this, he quoted from what he mistook to be the by-laws of the society, the following passage: "Every man who enters into a fraternity engages by a tacit compact not only to submit to the laws, but to promote the honor and interest of the association, so far as they are consistent with morality and the general good of mankind;" to which

reasoning, your remonstrant replied as follows: "The gentleman has altogether misapprehended the matter; the clause upon which he founds his argument is not in our books; there is no such article in our by-laws, and it does not relate, in the least, to our affairs. It is an extract from Percival or Gregory, or some writer on medical ethics, who furnishes many admirable precepts, and some of which the gentleman would find to be excellent rules for his own conduct; but we have nothing to do with it. It is a part of the 'Boston Code of Medical Police,' and has no relation to the Massachusetts Medical Society." The obvious meaning of which is, that Dr. Bartlett, having mistaken the code of police of the Medical Association of the city of Boston, for the by-laws of the Medical Society of the State of Massachusetts, (which two institutions have no connexion with each other,) had no right to found his defence on that document, which did not pertain to said society, and who had, therefore, nothing to do with said document. Dr. Bartlett has confirmed on oath the fact, that on these passages, and *on these alone*, he has based the monstrous assumption, that your remonstrant did officially assert, "that the laws of the Massachusetts Medical Society do not recognise the sentiment, that a regard for morality and the general good of mankind is in any way incumbent on its members, and that its members are bound to obey the by-laws of the society without reserve, even though the sacrifice of human life be the consequence;" which statement is a manifest and malicious distortion of the language and sentiments which your remonstrant did utter, and a totally false and unfounded addition of words and ideas, to which he gave no utterance, and which, if spoken at that time, would have subjected the speaker to the indignant rebuke

of the large number, amounting to one hundred and twenty-six members of the society, who were present. No such rebuke was made by Dr. Bartlett on the occasion of his reply to remarks of your remonstrant, nor was the utterance of any such language or sentiments alluded to during a long discussion, which, subsequently to their pretended utterance, preceded the expulsion of Dr. Bartlett.

Your remonstrant further respectfully states, that he does not request any redress from your honorable body, for the intended injury of Dr. Bartlett's petition, and that he is content to bear, in common with the rest, the foul slanders of Dr. Bartlett against the members of the Medical Society, comprising nearly the whole of the educated portion of the medical profession in the State, who have hitherto retained the universal respect of the community, as a learned, laborious, useful and patriotic class of citizens. But your remonstrant respectfully requests that the select Committee appointed upon the petition of Dr. Bartlett's may be directed to examine into the proofs of Dr. Bartlett's allegations, and if they shall find them, as your remonstrant maintains them to be, totally nugatory, to pronounce these charges untrue, and without foundation.

Your remonstrant would further set forth, that the mode by which Dr. Bartlett has succeeded in bringing his private injuries and professional jealousies before the Legislature and the public, is one, which, if countenanced by your honorable body, will enable every ill-designing and unworthy person in society to level abuse and direct malice against individuals and communities, by asking for a repeal of any civil, literary or religious corporation, on the ground of their being responsible for the opinions expressed by an individual of their number,

thereby erecting a tribunal for alleged offences, without a trial by jury, or a bench of judicature of persons learned in the law.

All of which is most respectfully submitted, by

A. L. PEIRSON, M. D.,
of Salem, Mass.

